

pennsylvania
OFFICE OF OPEN RECORDS
FINAL DETERMINATION

IN THE MATTER OF

**ZACHARY ABU-ORF AND
BELDOCK LEVINE & HOFFMAN,
LLP,
Requester**

v.

**DAUPHIN COUNTY,
Respondent**

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Docket No: AP 2026-1382

FACTUAL BACKGROUND

On February 19, 2026,¹ Zachary Abu-Orf and Beldock Levine & Hoffman LLP (collectively “Requester”) submitted a request (“Request”) to Dauphin County (“County”) pursuant to the Right-to-Know Law (“RTKL”), 65 P.S. §§ 67.101 *et seq.*, stating:

My office represents the family/next of kin/putative estate of Chaofeng Ge. Pursuant to the [RTKL], I hereby write to request a certified copy of the entire Dauphin County file regarding Chaofeng Ge, including but not limited to, the death of Chaofeng Ge at Moshannon Valley Processing Center on 8/5/2025. Please note that this [R]equest applies to the entire file inclusive of hard copy paper records, electronically stored information (ESI), audio/visual records, reports, photos, videos, media files, and any other format of records.

[Additional background information omitted]²

¹ While the Request is dated December 19, 2025, it appears to have been received by the County on January 12, 2026. See County’s final response, dated January 12, 2026.

² The Requester also attached an “Authorization to Release” signed by the Mr. Yanfeng Ge, brother/informant of Chaofeng Ge. While the status or relationship to records may entitle a requester to individual access under other laws or regulations, or by permission of the subject of the records, there is no exception under the RTKL that provides for

On March 30, 2026, following a thirty-day extension during which to respond, 65 P.S. § 67.902(b), the County granted the Request in part, providing responsive records and denied the Request in part, withholding or redacting personal identification information, 65 P.S. § 67.708(b)(6), information protected under the Criminal History Record Information Act (“CHRIA”), 18 Pa.C.S. §§ 9101 *et seq.*, records related to a criminal investigation, 65 P.S. § 67.708(b)(16), and of an individual’s medical, psychiatric or psychological history, 65 P.S. § 67.708(b)(5).

On April 7, 2026, the Requester appealed to the Office of Open Records (“OOR”), challenging the denial and stating grounds for disclosure. The Requester argues, among other things, that the County’s “production of documents is incomplete.” The OOR invited both parties to supplement the record and directed the County to notify the OOR if any third parties have a direct interest in the appeal. 65 P.S. § 67.1101(c).

On April 17, 2026, the County submitted a position statement, reiterating its grounds for denial and arguing that there are no additional records responsive to the Request. Additionally, the County states that “if the [OOR] believes further factual development is necessary as to a discrete category of withheld records, the County respectfully requests permission to submit records for *in camera* review rather than public disclosure.” In support of its position, the County submitted the attestation, made subject to the penalties of 18 Pa.C.S. § 4904, of Vincent Paese (“Paese Attestation”), Deputy Chief Clerk and Open Records Officer (“AORO”) for the County.

public disclosure based upon an individual requester’s status or relationship to the record. *See DiMartino v. Pa. State Police*, No. 340 C.D. 2011, 2011 Pa. Commw. Unpub. LEXIS 787 (Pa. Commw. Ct. Sept. 19, 2011) (stating that “the requester’s status as representative of Decedent’s family has no bearing on whether the requested records are accessible

On June 1, 2026,³ the OOR asked the County to provide additional evidence (i.e. attestation/Privilege Log) describing what records were withheld or redacted and the specific exemption that applies.⁴ On June 3, 2026, the OOR extended the submission period to June 15, 2026 for the County to submit additional evidence. To date, the County has not submitted any additional evidence or otherwise specifically identified what records it withheld/redacted.⁵

LEGAL ANALYSIS

The County is a local agency subject to the RTKL. 65 P.S. § 67.302. Records in the possession of a local agency are presumed to be public, unless exempt under the RTKL or other law or protected by a privilege, judicial order or decree. *See* 65 P.S. § 67.305. As an agency subject to the RTKL, the County is required to demonstrate, “by a preponderance of the evidence,” that records are exempt from public access. 65 P.S. § 67.708(a)(1). Preponderance of the evidence has been defined as “such proof as leads the fact-finder...to find that the existence of a contested fact is more probable than its nonexistence.” *Pa. State Troopers Ass’n v. Scolforo*, 18 A.3d 435, 439 (Pa. Commw. Ct. 2011) (quoting *Pa. Dep’t of Transp. v. Agric. Lands Condemnation Approval Bd.*, 5 A.3d 821, 827 (Pa. Commw. Ct. 2010)). While the County sought an *in camera* review of the withheld records, it has not provided a meaningful evidentiary record to facilitate such a review. As such, the County’s request for *in camera* review is denied.

1. The County has demonstrated that additional records responsive to the Request do not exist in its possession, custody or control.

³ The OOR asked the Requester for an extension of time to issue a final determination in order to further develop the record. The OOR noted that the Requester’s failure to respond will result in the OOR extending the final determination deadline. To date, the Requester has not responded.

⁴ While the OOR recognizes the County’s request for an *in camera* review, further factual development would be beneficial before making that determination.

⁵ The OOR notes that the County logged into the OOR’s portal on June 23, 2026.

The County asserts that it conducted a good faith search and that there are no additional records responsive to the Request. In response to a request for records, “an agency shall make a good faith effort to determine if ... the agency has possession, custody or control of the identified record[.]” 65 P.S. § 67.901. While the RTKL does not define the term “good faith effort,” in *Uniontown Newspapers, Inc. v. Pennsylvania Department of Corrections*, the Commonwealth Court stated:

As part of a good faith search, the open records officer has a duty to advise all custodians of potentially responsive records about the request, and to obtain all potentially responsive records from those in possession ... When records are not in an agency’s physical possession, an open records officer has a duty to contact agents within its control, including third-party contractors ... After obtaining all potentially responsive records, an agency has the duty to review the records and assess their public nature under ... the RTKL.

185 A.3d 1161, 1171-72 (Pa. Commw. Ct. 2018) (citations omitted), *aff’d*, 243 A.3d 19 (Pa. 2020).

An agency must show, through detailed evidence submitted in good faith from individuals with knowledge of the agency’s records, that it has conducted a search reasonably calculated to uncover all relevant documents. *See Burr v. Pa. Dep’t of Health*, OOR Dkt. AP 2021-0747, 2021 PA O.O.R.D. LEXIS 750; *see also Mollick v. Twp. of Worcester*, 32 A.3d 859, 875 (Pa. Commw. Ct. 2011).

In support of its argument that it conducted a good faith search, the Paese Attestation,⁶ submitted by the County’s Deputy Chief Clerk and AORO, asserts that Mr. Paese “undertook and/or coordinated a good-faith search for records responsive to the [R]equest[.]” Paese Attestation, ¶ 6. Mr. Paese, in conducting a good-faith search, identified the County offices,

⁶ Under the RTKL, an attestation is generally competent evidence to sustain an agency’s burden of proof. *See Sherry v. Radnor Twp. Sch. Dist.*, 20 A.3d 515, 520-21 (Pa. Commw. Ct. 2011); *Moore v. Office of Open Records*, 992 A.2d 907, 909 (Pa. Commw. Ct. 2010). In the absence of any competent evidence that the Department acted in bad faith or that responsive/additional records exist, “the averments in [the attestation] should be accepted as true.” *McGowan v. Pa. Dep’t of Env’t Prot.*, 103 A.3d 374, 382-83 (Pa. Commw. Ct. 2014) (citing *Off. of the Governor v. Scolforo*, 65 A.3d 1095, 1103 (Pa. Commw. Ct. 2013)).

personnel, and record repositories likely to possess responsive records and “searched for and/or requested searches of records maintained by the County Administrative Offices and other County custodies reasonably believed to possess responsive records, including records maintained electronically and in paper form.” *Id.* at ¶ 8. Additionally, Mr. Paese communicated “with County personnel familiar with the underlying subject matter of the [R]equest in order to identify, locate, and gather potentially responsive records [and determined that a]fter conducting the above-described good-faith search and review, [the] County produced all responsive, nonexempt records that it located and that were within its possession, custody, or control.” *Id.* at ¶¶ 9, 17. Finally, the County asserts that it is “not aware of any additional nonexempt [] County records responsive to the [R]equester’s appeal demand for communications with ICE that were not already produced or withheld as exempt [and that the] County did not withhold any responsive record arbitrarily or in bad faith.” *Id.* at ¶¶ 20-21.

In *Pa. Dep’t of Health v. Mahon*, the Commonwealth Court held that an agency “may satisfy its burden of proof...with either an unsworn attestation by the person who searched for the record or a sworn affidavit of nonexistence of the record.” 283 A.3d 929, 936 (Pa. Commw. Ct. 2022) (quoting *Hodges v. Pa. Dep’t of Health*, 29 A.3d 1190, 1192 (Pa. Commw. Ct. 2011)). We note that the preponderance of the evidence is the lowest evidentiary standard. *See Campbell v. Pa. Interscholastic Athletic Ass’n*, 268 A.3d 502 (Pa. Commw. Ct. 2021) (noting that an agency need only prove the nonexistence of records by a preponderance of the evidence, the lowest evidentiary standard, and is tantamount to a “more likely than not” inquiry). Based on the Paese

Attestation, the County has met its burden of proof, by a preponderance of the evidence, that there are no additional records responsive to the Request.⁷ *Hodges*, 29 A.3d at 1192.

2. Certain material is facially exempt under the RTKL

Section 708(b)(5) of the RTKL exempts from disclosure “[a] record of an individual’s medical, psychiatric or psychological history or disability status ... or related information that would disclose individually identifiable health information.” 65 P.S. § 67.708(b)(5). The County asserts that it withheld or redacted records “because they consisted of records of an individual’s medical, psychiatric, or psychological history, diagnosis, treatment, or related health information[.]” Paese Attestation, ¶ 15. Because the records seek information of an identified individual, any medical information is by its very nature individually identifiable and is exempt from disclosure. 65 P.S. § 78.708(b)(5).

Next, Section 708(b)(6) of the RTKL exempts from disclosure “home, cellular or personal telephone numbers, personal e-mail addresses [and] employee number or other confidential personal identification number [and a] spouse’s name, marital status or beneficiary or dependent information.” 65 P.S. 67.708(b)(6)(i)(A). The County asserts that “[c]ertain information within otherwise responsive records was redacted because it consisted of personal identification information protected from disclosure under the RTKL.” Paese Attestation, ¶ 12. Accordingly, the County was permitted to redact or withhold personal identification information specifically exempt pursuant to 65 P.S. 67.708(b)(6)(i)(A).

3. The County did not demonstrate the records responsive to the Request are exempt criminal investigative records or are protected by CHRIA.

⁷ Despite the Requester’s arguments that additional records must exist, the OOR makes no determinations as to whether additional records should exist, as our inquiry is limited to only whether or not records are “in existence and in possession of the ... agency at the time of the right-to-know request.” *Moore*, 992 A.2d at 909.

The County argues that records responsive to the Request were withheld as related to a criminal investigation or were protected by CHRIA. As noted above, the OOR extended the submission period to provide the County the opportunity to submit additional evidence (i.e. attestation/Privilege Log) describing what records were withheld or redacted and the specific exemption that applies. *See* OOR’s June 1, 2026 correspondence. To date, the County has not made an additional submission.

Section 708(b)(16) of the RTKL exempts from disclosure, “[a] record of an agency relating to or resulting in a criminal investigation, including: ...[c]omplaints of potential criminal conduct...[i]nvestigative materials, notes correspondence, videos and reports...[v]ictim information ... [and] [a] record that, if disclosed, would...[r]eveal the institution, progress or result of a criminal investigation, except the filing of charges.” 65 P.S. §§ 67.708(b)(16)(i)-(ii), (v), (vi)(A).

Generally, CHRIA governs the “collection, maintenance, dissemination, disclosure and receipt of criminal history record information.” *Cal. Borough v. Rothey*, 185 A.3d 456, 467 (Pa. Commw. Ct. 2018). CHRIA, as a matter of law, “prohibits disseminating ‘investigative information’ to any persons or entities other than criminal justice agents and agencies.” *Id.*; 18 Pa. C.S. § 9106(c)(4). Section 9106(c)(4) of CHRIA states:

Investigative and treatment information shall not be disseminated to any department, agency, or individual unless the department, agency or individual requesting the information is a criminal justice agency which requests the information in connection with its duties, and the request is based upon a name, fingerprints, modus operandi, genetic typing, voice print or other identifying characteristic.

18 Pa.C.S. § 9106(c)(4). CHRIA defines “investigative information” as “[i]nformation assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing.” *Rothey* 185 A.3d at 467; 18 Pa.C.S. § 9102.

Here, the County does not provide evidence showing that the records responsive to the Request are related to any investigation it conducted or are otherwise protected by CHRIA. Rather, the Paese Attestation simply restates the statutory language, and an agency cannot rely on conclusory statements to sustain its burden of proof. *See Scolforo*, 65 A.3d at 1103; *Pa. Dep't of Educ. v. Bagwell*, 131 A.3d 638, 659 (Pa. Commw. Ct. 2016) (“Affidavits that are conclusory or merely parrot the exemption do not suffice”) (citing *Scolforo*). Accordingly, the County did not demonstrate the records responsive to the Request are exempt criminal investigative records or protected by CHRIA and the OOR will order the disclosure of such records.⁸ *See* 65 P.S. § 67.708(b)(16).

CONCLUSION

For the foregoing reasons, the appeal is **granted in part** and **denied in part**, and the County is required to provide all responsive records within thirty days with personal identification information and related health information redacted. This Final Determination is binding on all parties. Within thirty days of the mailing date of this Final Determination, any party may appeal to the Dauphin County Court of Common Pleas. 65 P.S. § 67.1302(a). All parties must be served with notice of the appeal. The OOR also shall be served notice and have an opportunity to respond according to court rules as per 65 P.S. § 67.1303, but as the quasi-judicial tribunal adjudicating this matter, the OOR is not a proper party to any appeal and should not be named as a party.⁹ All documents or communications following the issuance of this Final Determination shall be sent to oor-postfd@pa.gov. This Final Determination shall be placed on the OOR website at: <http://openrecords.pa.gov>.

⁸ To the extent the responsive records contain personal identification information or related health information, the County may redact such information. 65 P.S. §§ 67.708(b)(5), (b)(6).

⁹ *Padgett v. Pa. State Police*, 73 A.3d 644, 648 n.5 (Pa. Commw. Ct. 2013).

FINAL DETERMINATION ISSUED AND MAILED: July, 9, 2026

/s/ Lyle Hartranft

LYLE HARTRANFT, ESQ.
APPEALS OFFICER

Sent via OOR portal to: Zachary Abu-Orf; Jeremy Ravinsky, Esq.
Vince Paese, AORO; Jennifer Ruth, Esq.